

E-Filing

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BENJAMIN GONZALES,

Petitioner,

No. C 02-02279 JSW

v.

GEORGE GALAZA,

Respondent.

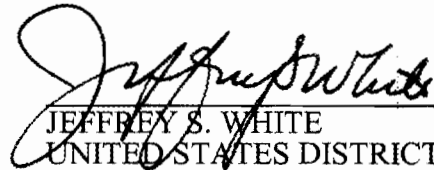
**ORDER RE CONTINUATION OF
STAY**

On May 15, 2003, the Court granted Petitioner's motion to stay his habeas corpus petition to allow him to investigate unexhausted claims and to permit him to raise any unexhausted claims in state court. Since that time, the Court has granted Petitioner's multiple requests to continue the stay in this action. However, the Court finds that, pursuant to the Supreme Court holding in *Rhines v. Weber*, 544 U.S. 269, 125 S. Ct. 1528, 1535 (2005), Petitioner must show that "good cause for his failure to exhaust, his unexhausted claims are potentially meritorious, and there is no indication that the petitioner has engaged in intentionally dilatory tactics." The Court held that even where stay and abeyance is appropriate, the district court's discretion in structuring the stay is limited by the timeliness concerns reflected in the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). *Id.* Without time limitations, petitioners "could frustrate AEDPA's goal of finality by dragging out indefinitely their federal habeas review. Thus, the district court should place reasonable time limits on a petitioner's trip to state court and back." *Id.* (citation omitted).

1 Therefore, the stay of proceedings shall remain in effect until May 19, 2006 at which
2 time Petitioner must file a supplemental status report outlining in detail good cause for failure to
3 exhaust, the meritoriousness of the unexhausted claims, and the reasons for the substantial delay
4 in pursuing his unexhausted claims in state court. Petitioner must also include a proposed
5 schedule setting out a reasonable timeline for resolution of his investigation and efforts to
6 exhaust his claims in state court. Petitioner may file such declaration ex parte and request that it
7 be filed under seal.

8
9 **IT IS SO ORDERED.**

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11 Dated: **APR 11 2006**


JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE